

**APPENDIX**  
**TO TRANSMITTAL MAKING EMAIL COMMUNICATIONS OF RECORD**

**From:** Agnew, Christopher  
**To:** "clement.graham@uspto.gov"  
**Cc:** "hani.kazimi@uspto.gov"  
**Subject:** Application Serial No. 10/655,409 (Atty. Docket No. 98-HSX001-C5  
**Date:** Tuesday, July 27, 2010 9:26:46 PM  
**Attachments:** 98-HSX001-C5\_100723\_Terminal\_Disclaimer\_09-465607.pdf  
98-HSX001-C5\_100723\_Terminal\_Disclaimer\_11-351614.pdf

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Dear Examiner Graham and Primary Examiner Kazimi,

I promised to send you proposed claim amendments in the above patent application by today. As I explained to Examiner Graham earlier today, the amendments are taking somewhat longer than expected.

**This case is currently under final, so there should be limited urgency from your end. Still, I apologize for any inconvenience. I will work on preparing a proposed amendment in this case as a lower priority than the other case.**

**I expect to send you a proposed amendment in this case before the end of the week, if not sooner. I have attached copies of the Terminal Disclaimers that I filed in this case last Friday.**

I am available to speak with you 24 hours a day/7 days a week. My work number is (857) 413-2050 and my home number is (781) 826-0894. I look forward to speaking with you in the near future.

Authorization for Email Communication

Recognizing that Internet communications are not secure, Applicant hereby authorizes the USPTO to communicate with any authorized representative concerning any subject matter of this application by electronic mail. Applicant understands that a copy of these communications will be made of record in the application file.

General Authorization for All Fees During Pendency of this Application

For the entire pendency of the application, the Commissioner of Patents is hereby authorized to charge all fees, or credit any overpayment, to our Deposit Account No. 50-3938.

Best regards,

/Christopher D. Agnew/

**Christopher David Agnew**  
Vice President and Assistant General Counsel  
Cantor Fitzgerald, L.P.  
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Boston, MA 02110  
(857) 413-2050 (Direct)  
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**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)  
98-HSX001-C5

In re Application of: TIMOTHY M. KEISER

Application No.: 10/655,409

Filed: September 4, 2003

For: COMPUTER-IMPLEMENTED SECURITIES TRADING SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION

The owner\*, CFPH, L.L.C., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 09/465,607, filed on December 17, 1999, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application," in the event that: any such patent: granted on the pending **reference** application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 43,464

/Christopher D. Agnew/  
Signature

7/23/2010  
Date

Christopher D. Agnew  
Typed or printed name

(857) 413-2050  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Filed: September 4, 2003

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The owner\*, CFPH, L.L.C., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 11/351,614, filed on February 9, 2006, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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/Christopher D. Agnew/  
Signature

7/23/2010  
Date

Christopher D. Agnew  
Typed or printed name

(857) 413-2050  
Telephone Number

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**From:** Agnew, Christopher  
**To:** "clement.graham@uspto.gov"; "hani.kazimi@uspto.gov"  
**Cc:** Farhanish, Glen  
**Subject:** Application Serial No. 10/655,409 (Atty. Docket No. 98-HSX001-C5)  
**Date:** Thursday, July 29, 2010 10:53:21 PM  
**Attachments:** 98-HSX001-C5\_100729\_Proposed\_Amendment.pdf  
98-HSX001-C5\_100729\_Proposed\_Amendment.doc  
98-HSX001-C5\_100723\_Terminal\_Disclaimer\_09-465607.pdf  
98-HSX001-C5\_100723\_Terminal\_Disclaimer\_11-351614.pdf

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Dear Examiner Graham and Primary Examiner Kazimi,

Attached please find proposed claim amendments in the above patent application. I have included both PDF and Word versions of these amendments.

**The new claims are generally as discussed last week with some minor changes. I know that Primary Examiner Kazimi is on vacation, so, if you like, we can speak when he returns.**

**As previously noted, this case is under final.**

**I've attached again the two Terminal Disclaimers that I filed in this case last Friday.**

Please note that the attached proposed new claims are intended to advance prosecution toward an earlier allowance and/or satisfy current business objectives of Applicant, and are not necessarily proposed for reasons of patentability. Canceled claims, if any, are canceled without prejudice or disclaimer.

Applicants authorize entry of the proposed new claims (and amended title) as an Examiner's Amendment. Applicants also hereby authorize the Commissioner of Patents to charge any additional claims fees associated with the Examiner's Amendment to our Deposit Account No. 50-3938.

I am available to speak with you 24 hours a day/7 days a week. My work number is (857) 413-2050 and my home number is (781) 826-0894. I look forward to speaking with you in the near future.

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General Authorization for All Fees During Pendency of this Application

For the entire pendency of the application, the Commissioner of Patents is hereby authorized to charge all fees, or credit any overpayment, to our Deposit Account No. 50-3938.

Best regards,

/Christopher D. Agnew/

**Christopher David Agnew**  
Vice President and Assistant General Counsel  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Timothy M. Keiser *et al.*  
Application No. : **10/655,409**  
Confirmation No. : 6575  
Filed : September 4, 2003  
For : COMPUTER-IMPLEMENTED SECURITIES TRADING  
SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION  
  
[New Title after entry of Proposed Amendment:  
**COMPUTER-IMPLEMENTED SECURITIES  
TRADING SYSTEM**]  
  
Group Art Unit : 3691  
Examiner : Clement Graham  
Attorney Docket No. : 98-HSX001-C5  
Customer No. : 63710

**PROPOSED AMENDMENT TO THE TITLE**

**Please make an Examiner's Amendment changing the title to the following:**

**COMPUTER-IMPLEMENTED SECURITIES TRADING SYSTEM**

**PROPOSED CLAIM AMENDMENTS**

INDEPENDENT CLAIMS: 180, 191, and 203

DEPENDENT CLAIMS: 181-190, 192-202, and 204-213

CANCELED CLAIMS: 1-179 (canceled without prejudice or disclaimer)

CURRENTLY AMENDED: **None**

NEW CLAIMS: 180-213

1-179. **(Canceled)**.

180. **(New)** A method, comprising:

determining, using a computing device, an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receiving an order to buy the financial instrument;

receiving an order to sell the financial instrument;

determining, using the computing device, an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determining, using the computing device, a price of the financial instrument based at least in part on the imbalance; and

executing a trade on the financial instrument at the determined price.

181. **(New)** The method of claim 180, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

182. **(New)** The method of claim 180, further comprising:

attaching a warrant with a strike price to the financial instrument.

183. **(New)** The method of claim 180, further comprising:

determining that the imbalance exceeds a threshold; and

stopping trading of the financial instrument based on the imbalance exceeding the threshold.

184. (New) The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

185. (New) The method of claim 184, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

186. (New) The method of claim 184, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

187. (New) The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

188. (New) The method of claim 187, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

189. (New) The method of claim 187, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

190. (New) The method of claim 180, in which receiving the order to buy the financial instrument comprises:

receiving, from a remote device, the order to buy the financial instrument, in which the computing device and the remote device are in communication over a network.

191. (New) An apparatus, comprising:  
at least one computing device; and  
a non-transitory tangible medium storing instructions that, when executed by the at least one computing device, cause the at least one computing device at least to:

determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receive an order to buy the financial instrument;

receive an order to sell the financial instrument;

determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determine a price of the financial instrument based at least in part on the imbalance; and

execute a trade on the financial instrument at the determined price.

192. (New) The apparatus of claim 191, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

193. (New) The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:  
attach a warrant with a strike price to the financial instrument.

194. (New) The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

determine that the imbalance exceeds a threshold; and  
stop trading of the financial instrument based on the imbalance exceeding the threshold.

195. (New) The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

196. (New) The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

197. (New) The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

198. (New) The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

199. (New) The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

200. (New) The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

201. **(New)** The apparatus of claim 191, in which the at least one computing device comprises the non-transitory tangible medium.

202. **(New)** The apparatus of claim 191, in which the at least one computing device does not comprise the non-transitory tangible medium.

203. **(New)** An article of manufacture, comprising:  
a non-transitory tangible medium storing instructions that, when executed by at least one computing device, cause the at least one computing device at least to:

determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receive an order to buy the financial instrument;

receive an order to sell the financial instrument;

determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determine a price of the financial instrument based at least in part on the imbalance; and

execute a trade on the financial instrument at the determined price.

204. **(New)** The article of manufacture of claim 203, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

205. **(New)** The article of manufacture of claim 204, further comprising the at least one computing device.

206. **(New)** The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

attach a warrant with a strike price to the financial instrument.

207. **(New)** The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

determine that the imbalance exceeds a threshold; and  
stop trading of the financial instrument based on the imbalance exceeding the threshold.

208. **(New)** The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

209. **(New)** The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and  
increasing the price of the financial instrument when the price increase exceeds the threshold.

210. **(New)** The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

211. **(New)** The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

212. **(New)** The article of manufacture of claim 211, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

213. (New) The article of manufacture of claim 211, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Timothy M. Keiser *et al.*  
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Confirmation No. : 6575  
Filed : September 4, 2003  
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[New Title after entry of Proposed Amendment:  
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Group Art Unit : 3691  
Examiner : Clement Graham  
Attorney Docket No. : 98-HSX001-C5  
Customer No. : 63710

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receiving an order to sell the financial instrument;

determining, using the computing device, an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determining, using the computing device, a price of the financial instrument based at least in part on the imbalance; and

executing a trade on the financial instrument at the determined price.

181. **(New)** The method of claim 180, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

182. **(New)** The method of claim 180, further comprising:

attaching a warrant with a strike price to the financial instrument.

183. **(New)** The method of claim 180, further comprising:

determining that the imbalance exceeds a threshold; and

stopping trading of the financial instrument based on the imbalance exceeding the threshold.

184. **(New)** The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

185. **(New)** The method of claim 184, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

186. **(New)** The method of claim 184, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

187. **(New)** The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

188. **(New)** The method of claim 187, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

189. **(New)** The method of claim 187, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

190. **(New)** The method of claim 180, in which receiving the order to buy the financial instrument comprises:

receiving, from a remote device, the order to buy the financial instrument, in which the computing device and the remote device are in communication over a network.

191. **(New)** An apparatus, comprising:  
at least one computing device; and  
a non-transitory tangible medium storing instructions that, when executed by the at least one computing device, cause the at least one computing device at least to:

determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receive an order to buy the financial instrument;

receive an order to sell the financial instrument;

determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determine a price of the financial instrument based at least in part on the imbalance; and

execute a trade on the financial instrument at the determined price.

192. **(New)** The apparatus of claim 191, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

193. **(New)** The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:  
attach a warrant with a strike price to the financial instrument.

194. **(New)** The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

determine that the imbalance exceeds a threshold; and  
stop trading of the financial instrument based on the imbalance exceeding the threshold.

195. **(New)** The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

196. **(New)** The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

197. **(New)** The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

198. **(New)** The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

199. **(New)** The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

200. **(New)** The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

201. (New) The apparatus of claim 191, in which the at least one computing device comprises the non-transitory tangible medium.

202. (New) The apparatus of claim 191, in which the at least one computing device does not comprise the non-transitory tangible medium.

203. (New) An article of manufacture, comprising:  
a non-transitory tangible medium storing instructions that, when executed by at least one computing device, cause the at least one computing device at least to:

- determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;
- receive an order to buy the financial instrument;
- receive an order to sell the financial instrument;
- determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;
- determine a price of the financial instrument based at least in part on the imbalance; and
- execute a trade on the financial instrument at the determined price.

204. (New) The article of manufacture of claim 203, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

205. (New) The article of manufacture of claim 204, further comprising the at least one computing device.

206. (New) The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

attach a warrant with a strike price to the financial instrument.

207. **(New)** The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

determine that the imbalance exceeds a threshold; and  
stop trading of the financial instrument based on the imbalance exceeding the threshold.

208. **(New)** The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

209. **(New)** The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and  
increasing the price of the financial instrument when the price increase exceeds the threshold.

210. **(New)** The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

211. **(New)** The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

212. **(New)** The article of manufacture of claim 211, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

213. (New) The article of manufacture of claim 211, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.



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**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)  
98-HSX001-C5

In re Application of: TIMOTHY M. KEISER

Application No.: 10/655,409

Filed: September 4, 2003

For: COMPUTER-IMPLEMENTED SECURITIES TRADING SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION

The owner\*, CFPH, L.L.C., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 09/465,607, filed on December 17, 1999, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application," in the event that: any such patent: granted on the pending **reference** application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 43,464

/Christopher D. Agnew/  
Signature

7/23/2010  
Date

Christopher D. Agnew  
Typed or printed name

(857) 413-2050  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)  
98-HSX001-C5

In re Application of: TIMOTHY M. KEISER

Application No.: 10/655,409

Filed: September 4, 2003

For: COMPUTER-IMPLEMENTED SECURITIES TRADING SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION

The owner\*, CFPH, L.L.C., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 11/351,614, filed on February 9, 2006, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application," in the event that: any such patent: granted on the pending **reference** application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 43,464

/Christopher D. Agnew/  
Signature

7/23/2010  
Date

Christopher D. Agnew  
Typed or printed name

(857) 413-2050  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

**From:** Agnew, Christopher  
**To:** "clement.graham@uspto.gov"; "hani.kazimi@uspto.gov"  
**Subject:** Application Serial No. 10/655,409 (Atty. Docket No. 98-HSX001-C5)  
**Date:** Wednesday, August 18, 2010 5:14:40 PM  
**Attachments:** 98-HSX001-C5 100816 Reply to Final Office Action.pdf  
98-HSX001-C5 100816 Reply to Final Office Action.doc

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Dear Examiner Graham and Primary Examiner Kazimi,

Attached please electronic copies of a "Reply to Final Office Action dated May 26, 2010" filed August 16, 2010. I have included both PDF and Word versions of the "after-final" amendment.

**The claims in the amendment are identical to the claims in the Proposed Amendment sent to your attention on July 29, 2010.**

I look forward to speaking with you both in the near future.

Authorization for Email Communication

Recognizing that Internet communications are not secure, Applicant hereby authorizes the USPTO to communicate with any authorized representative concerning any subject matter of this application by electronic mail. Applicant understands that a copy of these communications will be made of record in the application file.

General Authorization for All Fees During Pendency of this Application

For the entire pendency of the application, the Commissioner of Patents is hereby authorized to charge all fees, or credit any overpayment, to our Deposit Account No. 50-3938.

Best regards,

/Christopher D. Agnew/

**Christopher David Agnew**  
Vice President and Assistant General Counsel  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Timothy M. Keiser *et al.*  
Application No. : **10/655,409**  
Confirmation No. : 6575  
Filed : September 4, 2003  
For : COMPUTER-IMPLEMENTED SECURITIES TRADING  
SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION  
  
[New Title after entry of this Amendment:  
**COMPUTER-IMPLEMENTED SECURITIES  
TRADING SYSTEM**]  
  
Group Art Unit : 3691  
Examiner : Clement Graham  
Attorney Docket No. : 98-HSX001-C5  
Customer No. : 63710

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REPLY TO FINAL OFFICE ACTION DATED MAY 26, 2010**

This is a reply to the Final Office Action dated May 26, 2010 in connection with the above-identified application. Reconsideration of the application is respectfully requested.

As used herein, "we," "us," and/or "our" refer to the present Applicant.

**Amendments to the Specification** begin on page **2** of this paper; **Amendments to the Claims** are reflected in the listing of claims beginning on page **3** of this paper; and **Remarks** begin on page **10** of this paper.

**AMENDMENTS TO THE SPECIFICATION**

Please amend the title as follows:

**COMPUTER-IMPLEMENTED SECURITIES TRADING SYSTEM WITH A  
~~VIRTUAL SPECIALIST FUNCTION~~**

**AMENDMENTS TO THE CLAIMS**

This listing of claims will replace all prior versions, and listings, of claims in the application:

1-179. **(Canceled).**

180. **(New)** A method, comprising:

determining, using a computing device, an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receiving an order to buy the financial instrument;

receiving an order to sell the financial instrument;

determining, using the computing device, an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determining, using the computing device, a price of the financial instrument based at least in part on the imbalance; and

executing a trade on the financial instrument at the determined price.

181. **(New)** The method of claim 180, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

182. **(New)** The method of claim 180, further comprising:

attaching a warrant with a strike price to the financial instrument.

183. **(New)** The method of claim 180, further comprising:

determining that the imbalance exceeds a threshold; and

stopping trading of the financial instrument based on the imbalance exceeding the threshold.



184. **(New)** The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

185. **(New)** The method of claim 184, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

186. **(New)** The method of claim 184, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

187. **(New)** The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

188. **(New)** The method of claim 187, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

189. **(New)** The method of claim 187, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

190. **(New)** The method of claim 180, in which receiving the order to buy the financial instrument comprises:

receiving, from a remote device, the order to buy the financial instrument, in which the computing device and the remote device are in communication over a network.

191. **(New)** An apparatus, comprising:

at least one computing device; and

a non-transitory tangible medium storing instructions that, when executed by the at least one computing device, cause the at least one computing device at least to:

determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receive an order to buy the financial instrument;

receive an order to sell the financial instrument;

determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determine a price of the financial instrument based at least in part on the imbalance; and

execute a trade on the financial instrument at the determined price.

192. **(New)** The apparatus of claim 191, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

193. **(New)** The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:  
attach a warrant with a strike price to the financial instrument.

194. **(New)** The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:  
determine that the imbalance exceeds a threshold; and  
stop trading of the financial instrument based on the imbalance exceeding the threshold.

195. **(New)** The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

196. **(New)** The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

197. **(New)** The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

198. **(New)** The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

199. **(New)** The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

200. **(New)** The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

201. **(New)** The apparatus of claim 191, in which the at least one computing device comprises the non-transitory tangible medium.

202. **(New)** The apparatus of claim 191, in which the at least one computing device does not comprise the non-transitory tangible medium.

203. **(New)** An article of manufacture, comprising:  
a non-transitory tangible medium storing instructions that, when executed by at least one computing device, cause the at least one computing device at least to:

- determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;
- receive an order to buy the financial instrument;
- receive an order to sell the financial instrument;
- determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;
- determine a price of the financial instrument based at least in part on the imbalance; and
- execute a trade on the financial instrument at the determined price.

204. **(New)** The article of manufacture of claim 203, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

205. **(New)** The article of manufacture of claim 204, further comprising the at least one computing device.

206. **(New)** The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

- attach a warrant with a strike price to the financial instrument.

207. (New) The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

determine that the imbalance exceeds a threshold; and  
stop trading of the financial instrument based on the imbalance exceeding the threshold.

208. (New) The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

209. (New) The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and  
increasing the price of the financial instrument when the price increase exceeds the threshold.

210. (New) The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

211. (New) The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

212. (New) The article of manufacture of claim 211, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and  
decreasing the price of the financial instrument when the price decrease exceeds the threshold.

213. (New) The article of manufacture of claim 211, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

### **REMARKS**

In the event that this after-final amendment is entered, claims **180-213** are pending in this application. Claims **180, 191, and 203** are independent. We have canceled claims **20-26, 28, 29, 31, 32, 34, 38-43, and 144-179** without prejudice or disclaimer, and have added new claims **180-213**. Claims **1-19, 27, 30, 33, 35-37, and 44-143** were previously canceled without prejudice or disclaimer. Reconsideration and further examination of the application is respectfully requested.

### **Summary of Interviews of July 21, 2010 and August 10, 2010 and Other Discussions**

The undersigned spoke with Examiner Graham several times regarding the present application.

During a brief telephone discussion on June 16, 2010, the undersigned tentatively scheduled an interview with the Examiner and Primary Examiner Hani Kazimi for July 21, 2010. During the course of two brief telephone conversations between the undersigned and Examiner Graham on July 15, 2010 and July 19, 2010, the interview date of July 21, 2010 was confirmed.

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The undersigned explained to the Examiners that, notwithstanding any current rejections in the present application and in no way conceding the propriety of any current rejections in the present application, we would like to work with the United States Patent and Trademark Office to find common agreement to move the present application to allowance. Primary Examiner Kazimi in particular requested that the undersigned prepare and file Terminal Disclaimers on behalf of Applicants with respect to the two other pending applications under discussion. The undersigned and the Examiners also generally discussed potential claim language in the present application. No references were discussed. No agreement was reached, but the Examiners agreed to review and consider proposed amendments from the undersigned in the present application and the two other pending applications, notwithstanding the particular stage of prosecution in a particular pending application (e.g., after non-final Office Action, after final Office Action).

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Applicant subsequently decided to file the present Reply.

We do not necessarily agree with or acquiesce in any characterization of any claim term or rejection of any claim that the Examiner may have made in any Interview Summary or during the pendency of the present patent application.

The undersigned greatly appreciates Examiner Graham's time and Primary Examiner Kazimi's time in speaking with the undersigned regarding the present application.



Examiner Graham is strongly encouraged to telephone our undersigned representative, **Christopher Agnew, at (857) 413-2050** with any suggestions to advance prosecution and/or to resolve any condition that would impede allowance. Depending on the circumstances and not necessarily for reasons of patentability, we are willing to consider claim amendments and/or claim cancellations if such amendments and/or cancellations will, in our judgment, advance prosecution toward an earlier allowance and/or satisfy our current business objectives.

### **Claim Amendments**

We do not necessarily agree with the propriety of or concede any of the arguments in the Final Office Action dated May 26, 2010 ("Office Action"). Nor do we concede that the Examiner made *prima facie* showings for the rejections in the Office Action.

Nonetheless, to advance prosecution and obtain early issuance of some subject matter this year rather than potentially forgo the issuance of any subject matter at all this year, we have canceled claims **20-26, 28, 29, 31, 32, 34, 38-43, and 144-179** without prejudice or disclaimer, and have added new claims **180-213**. Claims **1-19, 27, 30, 33, 35-37, and 44-143** were previously canceled without prejudice or disclaimer. Reconsideration and further examination of the application is respectfully requested. We respectfully request reconsideration and withdrawal of the rejections.

We reserve the right to file any of the currently or previously canceled claims in, e.g., one or more continuing applications.

### **Claim Rejections - 35 U.S.C. § 103**

In the Office Action, the Examiner rejected earlier pending claims **20-26, 28, 29, 31, 32, 34, 38-43, and 144-179** under 35 U.S.C. § 103(a)<sup>1</sup> as allegedly being unpatentable over Rickard et al., U.S. Patent No. 6,016,483 ("**Rickard I**") in view of Rickard et al., U.S. Patent No. 6,112,189 ("**Rickard II**")<sup>2</sup>.

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<sup>1</sup> The Examiner made a minor error in failing to identify claims 38-43 as pending or as rejected (Office Action, pg. 2), although the Examiner appears to later reject these claims (Office Action, pp. 5-6), while apparently misidentifying claim 41 as claim 40 (Office Action, pg. 5).

<sup>2</sup> The Examiner is believed to have made a minor typographical error in identifying Rickard, et al., U.S. Patent No. 6,112,189 as "Rickard 1 US Patent No. 6,122,189." Office Action at p. 2.

As a threshold matter, we do not necessarily concede that **Rickard I** or **Rickard II** are valid references under 35 U.S.C. § 103(a), as the 35 U.S.C. § 102(e) dates for these references (September 20, 1996 and March 19, 1997, respectively) are after the filing date (March 25, 1996) of the earliest patent application (now issued U.S. Patent No. 5,950,176) in the chain of priority for the present application.<sup>3</sup>

We reserve the right to challenge the “prior art” status of **Rickard I** and/or **Rickard II** at a later time.

*Regardless*, we do not necessarily agree with or concede any of the arguments in the Office Action regarding, e.g., **Rickard I** and **Rickard II**. Nor do we concede that the Examiner made a *prima facie* showing that the earlier pending claims **1-3, 6, 8-10, 13-15, 18, and 20-22** were unpatentable under 35 U.S.C. § 103(a).

In fact, the Examiner failed to make a *prima facie* showing of obviousness for the earlier pending claims **20-26, 28, 29, 31, 32, 34, 38-43, and 144-179**. In order to establish a *prima facie* case of obviousness of a claimed invention, all of the features of a claim must be taught or suggested by the prior art.

For example, regarding previously pending independent claim **20**, the Examiner cited the following portions of **Rickard I** as allegedly disclosing “receiving, from a remote device, at a computing device at least one order to buy or sell a financial instrument, in which the financial; instrument represents a movie having a plurality of stages of development that comprise at least one pre-release stage and at least one post-release stage” (**Rickard I**:] “column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and [sic] column 9 lines 1-67”). Office Action at pg. 2. However, none of these cited portions of **Rickard I** discloses (or suggests) “receiving... at least one order to buy or sell a financial instrument, in which the financial; instrument represents a movie having a plurality of stages of development that comprise at least one pre-release stage and at least one post-release stage” as required by the previously pending claim **20**. For at least this reason, the

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<sup>3</sup> The present application is a continuation of U.S. Application Serial No. 09/465,607, filed December 17, 1999, which is a continuation of U.S. Application Serial No. 09/184,571, filed November 2, 1998, now U.S. Patent No.6,505,174, which is a continuation-in-part of U.S. Application Serial No. 08/620,906, filed March 25, 1996, now U.S. Patent No. 5,950,176.

Examiner failed to establish a *prima facie* case of obviousness for the previously pending claim **20**.

For at least similar reasons to those for the previously pending independent claim **20**, the Examiner failed to establish a *prima facie* case of obviousness for the previously pending claims **144 and 162** (which each reference “the method of claim 20”).

Nonetheless, to advance prosecution and obtain early issuance of some subject matter this year rather than potentially forgo the issuance of any subject matter at all this year, we have opted to pursue new claims **180-213**, rendering these rejections moot.

In any event, none of the portions of **Rickard I** or **Rickard II** cited by the Examiner in the Office Action discloses or suggests “determining ... an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;” as required by new independent claim **180**. New independent claims **191 and 203** include similar language that is similarly not disclosed or suggested by the cited portions of **Rickard I** or **Rickard II**.

Reconsideration and further examination of the application is respectfully requested. We respectfully request reconsideration and withdrawal of the rejections.

#### **General Comments on Dependent Claims**

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, we believe that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. We reserve the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

#### **Conclusion**

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this

paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

We believe that the application is in condition for allowance, which action is respectfully requested at the Examiner's earliest convenience.

#### **Comment Regarding Claim Amendments**

None of the statements below is intended to be an addition to or alteration of the written description of the application as filed. None of the statements below is a statement of what is or is not included in the written description of the application as filed.

In responding to this Office Action, we have made several amendments. We wish to make clear in amending the claims that, unless otherwise noted, "a," "an," or "the" means "one or more" and/or "at least one." For example, "an X" means "one or more X," and/or "at least one X."

**Authorization for Email Communication**

Recognizing that Internet communications are not secure, we hereby authorize the USPTO to communicate with any authorized representative concerning any subject matter of this application by electronic mail. We understand that a copy of these communications will be made of record in the application file.

**General Authorization for All Fees During Pendency of this Application**

For the entire pendency of the application, the Commissioner of Patents is hereby authorized to charge all fees, or credit any overpayment, to our Deposit Account No. 50-3938.

The Examiner is strongly encouraged to telephone our undersigned representative, Christopher Agnew, at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, we petition for any extension of time required to make this response timely and otherwise not present. Kindly charge any additional fee, or credit any surplus due for any reason, to Deposit Account No. 50-3938.

Respectfully submitted,

Dated: August 16, 2010

By:       /Christopher D. Agnew/        
Christopher D. Agnew  
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cagnew@cantor.com  
(857) 413-2050

Customer No: 63710

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Timothy M. Keiser *et al.*  
Application No. : **10/655,409**  
Confirmation No. : 6575  
Filed : September 4, 2003  
For : COMPUTER-IMPLEMENTED SECURITIES TRADING  
SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION  
  
[New Title after entry of this Amendment:  
**COMPUTER-IMPLEMENTED SECURITIES  
TRADING SYSTEM**]  
  
Group Art Unit : 3691  
Examiner : Clement Graham  
Attorney Docket No. : 98-HSX001-C5  
Customer No. : 63710

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REPLY TO FINAL OFFICE ACTION DATED MAY 26, 2010**

This is a reply to the Final Office Action dated May 26, 2010 in connection with the above-identified application. Reconsideration of the application is respectfully requested.

As used herein, "we," "us," and/or "our" refer to the present Applicant.

**Amendments to the Specification** begin on page **2** of this paper; **Amendments to the Claims** are reflected in the listing of claims beginning on page **3** of this paper; and **Remarks** begin on page **10** of this paper.

**AMENDMENTS TO THE SPECIFICATION**

Please amend the title as follows:

**COMPUTER-IMPLEMENTED SECURITIES TRADING SYSTEM WITH A  
~~VIRTUAL SPECIALIST FUNCTION~~**

**AMENDMENTS TO THE CLAIMS**

This listing of claims will replace all prior versions, and listings, of claims in the application:

1-179. **(Canceled)**.

180. **(New)** A method, comprising:

determining, using a computing device, an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receiving an order to buy the financial instrument;

receiving an order to sell the financial instrument;

determining, using the computing device, an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determining, using the computing device, a price of the financial instrument based at least in part on the imbalance; and

executing a trade on the financial instrument at the determined price.

181. **(New)** The method of claim 180, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

182. **(New)** The method of claim 180, further comprising:

attaching a warrant with a strike price to the financial instrument.

183. **(New)** The method of claim 180, further comprising:

determining that the imbalance exceeds a threshold; and

stopping trading of the financial instrument based on the imbalance exceeding the threshold.



184. **(New)** The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

185. **(New)** The method of claim 184, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

186. **(New)** The method of claim 184, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

187. **(New)** The method of claim 183, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

188. **(New)** The method of claim 187, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

189. **(New)** The method of claim 187, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

190. **(New)** The method of claim 180, in which receiving the order to buy the financial instrument comprises:

receiving, from a remote device, the order to buy the financial instrument, in which the computing device and the remote device are in communication over a network.

191. **(New)** An apparatus, comprising:

at least one computing device; and

a non-transitory tangible medium storing instructions that, when executed by the at least one computing device, cause the at least one computing device at least to:

determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;

receive an order to buy the financial instrument;

receive an order to sell the financial instrument;

determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;

determine a price of the financial instrument based at least in part on the imbalance; and

execute a trade on the financial instrument at the determined price.

192. **(New)** The apparatus of claim 191, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

193. **(New)** The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:  
attach a warrant with a strike price to the financial instrument.

194. **(New)** The apparatus of claim 191, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:  
determine that the imbalance exceeds a threshold; and  
stop trading of the financial instrument based on the imbalance exceeding the threshold.

195. **(New)** The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance.

196. **(New)** The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase; and

increasing the price of the financial instrument when the price increase exceeds the threshold.

197. **(New)** The apparatus of claim 195, in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase.

198. **(New)** The apparatus of claim 194, in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance.

199. **(New)** The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease; and

decreasing the price of the financial instrument when the price decrease exceeds the threshold.

200. **(New)** The apparatus of claim 198, in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease.

201. **(New)** The apparatus of claim 191, in which the at least one computing device comprises the non-transitory tangible medium.

202. **(New)** The apparatus of claim 191, in which the at least one computing device does not comprise the non-transitory tangible medium.

203. **(New)** An article of manufacture, comprising:  
a non-transitory tangible medium storing instructions that, when executed by at least one computing device, cause the at least one computing device at least to:

- determine an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;
- receive an order to buy the financial instrument;
- receive an order to sell the financial instrument;
- determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument;
- determine a price of the financial instrument based at least in part on the imbalance; and
- execute a trade on the financial instrument at the determined price.

204. **(New)** The article of manufacture of claim 203, in which the estimated revenue for the movie comprises a potential box office revenue for the movie.

205. **(New)** The article of manufacture of claim 204, further comprising the at least one computing device.

206. **(New)** The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

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207. (New) The article of manufacture of claim 203, wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:

determine that the imbalance exceeds a threshold; and  
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208. (New) The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

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209. (New) The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

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210. (New) The article of manufacture of claim 208, in which determining the price of the financial instrument further comprises:

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211. (New) The article of manufacture of claim 207, in which determining the price of the financial instrument comprises:

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### **REMARKS**

In the event that this after-final amendment is entered, claims **180-213** are pending in this application. Claims **180, 191, and 203** are independent. We have canceled claims **20-26, 28, 29, 31, 32, 34, 38-43, and 144-179** without prejudice or disclaimer, and have added new claims **180-213**. Claims **1-19, 27, 30, 33, 35-37, and 44-143** were previously canceled without prejudice or disclaimer. Reconsideration and further examination of the application is respectfully requested.

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### **Claim Amendments**

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We reserve the right to file any of the currently or previously canceled claims in, e.g., one or more continuing applications.

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In the Office Action, the Examiner rejected earlier pending claims **20-26, 28, 29, 31, 32, 34, 38-43, and 144-179** under 35 U.S.C. § 103(a)<sup>1</sup> as allegedly being unpatentable over Rickard et al., U.S. Patent No. 6,016,483 ("**Rickard I**") in view of Rickard et al., U.S. Patent No. 6,112,189 ("**Rickard II**")<sup>2</sup>.

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<sup>2</sup> The Examiner is believed to have made a minor typographical error in identifying Rickard, et al., U.S. Patent No. 6,112,189 as "Rickard 1 US Patent No. 6,122,189." Office Action at p. 2.

As a threshold matter, we do not necessarily concede that **Rickard I** or **Rickard II** are valid references under 35 U.S.C. § 103(a), as the 35 U.S.C. § 102(e) dates for these references (September 20, 1996 and March 19, 1997, respectively) are after the filing date (March 25, 1996) of the earliest patent application (now issued U.S. Patent No. 5,950,176) in the chain of priority for the present application.<sup>3</sup>

We reserve the right to challenge the “prior art” status of **Rickard I** and/or **Rickard II** at a later time.

*Regardless*, we do not necessarily agree with or concede any of the arguments in the Office Action regarding, e.g., **Rickard I** and **Rickard II**. Nor do we concede that the Examiner made a *prima facie* showing that the earlier pending claims **1-3, 6, 8-10, 13-15, 18, and 20-22** were unpatentable under 35 U.S.C. § 103(a).

In fact, the Examiner failed to make a *prima facie* showing of obviousness for the earlier pending claims **20-26, 28, 29, 31, 32, 34, 38-43, and 144-179**. In order to establish a *prima facie* case of obviousness of a claimed invention, all of the features of a claim must be taught or suggested by the prior art.

For example, regarding previously pending independent claim **20**, the Examiner cited the following portions of **Rickard I** as allegedly disclosing “receiving, from a remote device, at a computing device at least one order to buy or sell a financial instrument, in which the financial; instrument represents a movie having a plurality of stages of development that comprise at least one pre-release stage and at least one post-release stage” (**Rickard I**:] “column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and [sic] column 9 lines 1-67”). Office Action at pg. 2. However, none of these cited portions of **Rickard I** discloses (or suggests) “receiving... at least one order to buy or sell a financial instrument, in which the financial; instrument represents a movie having a plurality of stages of development that comprise at least one pre-release stage and at least one post-release stage” as required by the previously pending claim **20**. For at least this reason, the

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<sup>3</sup> The present application is a continuation of U.S. Application Serial No. 09/465,607, filed December 17, 1999, which is a continuation of U.S. Application Serial No. 09/184,571, filed November 2, 1998, now U.S. Patent No. 6,505,174, which is a continuation-in-part of U.S. Application Serial No. 08/620,906, filed March 25, 1996, now U.S. Patent No. 5,950,176.

Examiner failed to establish a *prima facie* case of obviousness for the previously pending claim **20**.

For at least similar reasons to those for the previously pending independent claim **20**, the Examiner failed to establish a *prima facie* case of obviousness for the previously pending claims **144 and 162** (which each reference “the method of claim 20”).

Nonetheless, to advance prosecution and obtain early issuance of some subject matter this year rather than potentially forgo the issuance of any subject matter at all this year, we have opted to pursue new claims **180-213**, rendering these rejections moot.

In any event, none of the portions of **Rickard I** or **Rickard II** cited by the Examiner in the Office Action discloses or suggests “determining ... an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie;” as required by new independent claim **180**. New independent claims **191 and 203** include similar language that is similarly not disclosed or suggested by the cited portions of **Rickard I** or **Rickard II**.

Reconsideration and further examination of the application is respectfully requested. We respectfully request reconsideration and withdrawal of the rejections.

#### **General Comments on Dependent Claims**

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, we believe that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. We reserve the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

#### **Conclusion**

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this

paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

We believe that the application is in condition for allowance, which action is respectfully requested at the Examiner's earliest convenience.

#### **Comment Regarding Claim Amendments**

None of the statements below is intended to be an addition to or alteration of the written description of the application as filed. None of the statements below is a statement of what is or is not included in the written description of the application as filed.

In responding to this Office Action, we have made several amendments. We wish to make clear in amending the claims that, unless otherwise noted, "a," "an," or "the" means "one or more" and/or "at least one." For example, "an X" means "one or more X," and/or "at least one X."

**Authorization for Email Communication**

Recognizing that Internet communications are not secure, we hereby authorize the USPTO to communicate with any authorized representative concerning any subject matter of this application by electronic mail. We understand that a copy of these communications will be made of record in the application file.

**General Authorization for All Fees During Pendency of this Application**

For the entire pendency of the application, the Commissioner of Patents is hereby authorized to charge all fees, or credit any overpayment, to our Deposit Account No. 50-3938.

The Examiner is strongly encouraged to telephone our undersigned representative, Christopher Agnew, at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, we petition for any extension of time required to make this response timely and otherwise not present. Kindly charge any additional fee, or credit any surplus due for any reason, to Deposit Account No. 50-3938.

Respectfully submitted,

Dated: August 16, 2010

By:       /Christopher D. Agnew/        
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